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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
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EXAMINER

RUHL, DENNIS WILLIAM

ART UNIT PAPER NUMBER

3629

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,218

Applicant(s)

MEADE,, WILLIAM K.

Examiner

Dennis Ruhl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 25 is/are pending in the application.
- 4a) Of the above claim(s) 2-6, 9, 10 and 14-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7, 8, 11-13, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Applicant's election of 9/28/06 has been entered. Applicant has elected to prosecute claims 1,7,8,11-13,17,18. Claims 2-6,9-10,14-16 are withdrawn as being drawn to a non-elected invention.

1. The abstract of the disclosure is objected to because it is more than one paragraph in length. Only one paragraph is allowed for an abstract. Correction is required. See MPEP § 608.01(b).

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1,7,8,11-13,17,18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claim 1, one wishing to avoid infringement would now understand the scope of the claim. The preamble states that the invention being claimed is "A method of controlling *an appliance*". The claim then goes on to recite the switching or splitting of a content performance from a first appliance to a second appliance. If the content is being switched from a 1st to a 2nd appliance, wouldn't that require at least two appliances? How many appliances are being controlled? Is the method for controlling an appliance (singular), or more than one appliance (1st and 2nd appliance)? This is not clear. Also not clear is the last portion of the claim that reads "and splitting the performance of content in include only a portion of the content performed on the first

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appliance". This is because of the language "of content in include" which does not make sense, and because of it is not clear as to what is meant by reciting that there is "splitting of the performance of the content" when there is no other appliance claimed to split the performance with? For the 3rd option of the "by at least one of" language from line 4, the scope is not clear. How can you split the performance without having another appliance to split the performance with?

For claims 7,11,17, one wishing to avoid infringement would now understand the scope of the claim. The preamble states that the invention being claimed is "A method of controlling *an appliance*". The claim then goes on to recite that there is a 1st and 2nd appliance. How many appliances are being controlled? Is the method for controlling an appliance (singular), or more than one appliance (1st and 2nd appliance)? This is not clear. There is no antecedent basis for "the mobile computing device".

For claims 12,18, one wishing to avoid infringement would now understand the scope of the claim. The preamble states that the invention being claimed is "A method of controlling *an appliance*". The claim then goes on to recite that there is a 1st and 2nd appliance. How many appliances are being controlled? Is the method for controlling an appliance (singular), or more than one appliance (1st and 2nd appliance)? This is not clear. There is no antecedent basis for "the mobile computing device". Also not clear is what portion of the content is being performed on the 2nd appliance. At line 5 it is claimed that "the performance of the content" is switched from the 1st appliance to the 2nd appliance. Also claimed is that the "content" includes a first media component and a 2nd media component. At the end of the claim it is recited that the performance of the

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content on the 2nd appliance includes only the 2nd media component of the content. The examiner finds this language of the claim to be contradictory. If it is recited that the "content" includes a 1st and 2nd component, and it is recited that "the content" is switched to the 2nd appliance, this is claiming that both the 1st and 2nd media components are being performed on the 2nd appliance. The portion of the claim that recites it is only the 2nd component that is being performed on the 2nd appliance contradicts the language that recites the "content" (which includes both the 1st and 2nd component) is being switched to the 2nd appliance. What portion of the content is being switched to the 2nd appliance, "the content" which includes both the 1st and 2nd media component, or just the 2nd component of the "content". One wishing to avoid infringement would not know under what condition one would be infringing due to the contradictory language.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 7 is rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. This rejection is based on the fact that "Sports Bars" show sporting events (The SuperBowl, The World Series, etc.) on multiple televisions at the same time.

Applicant has claimed wirelessly initiating a first performance of a content on a first and on a second appliance. It is further claimed that a first component is performed on the 1st appliance and a second component is performed on the 2nd appliance. The examiner notes that this claim language allows for both the 1st and 2nd component of the content to be performed on both the 1st and 2nd appliance. The claim language does not specifically exclude the performing of any of the 1st or 2nd components on the 1st and 2nd appliances. The entire content (both 1st and 2nd components) can be performed on both appliances. This is the manner in which the claim has been interpreted. The examiner takes "official notice" that in sports bars, sporting events are shown on multiple televisions at the same time. The instant examiner has personally witnessed employees at a restaurant/bar walking around with a remote control and wirelessly initiating the showing of the same game (performance of a content). This happens on Super Bowl Sunday, where if you go to a sports bar, the Super Bowl game will be shown on most if not all of the television in the sports bar so that all patrons can see the game. Using a remote control in a sports bar to have at least two television display the same game has been in public use more than one year prior to the US filing date of the instant application.

6. Claims 7,8, are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. This rejection is based on the very well known concept of hooking up a set top box (for cable) or a satellite receiver box so that the "video out" signal goes to a TV and the "audio out" signal goes to a stereo system.

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The examiner takes "official notice" that it is old and well known in the art to hook up the video and audio outputs of a cable box or satellite box to go to the TV and a stereo. The examiner has included a schematic of an owner's manual for a DirectTV™ satellite receiver box from 1999. As is very well known in the art, this reference that there are two output jacks for an audio signal to be output, and there is one output jack for a video signal. The video output is hooked up to the video input jack of a TV, so that the video signal can be displayed on the TV (the video image). It is well known in the art that the audio output jacks can be hooked up to audio input jacks for a stereo system (such as a surround sound system). When a person turns on a cable box (or satellite box) and has the system hooked up as the examiner has explained, this results one component of the content (the TV program) being performed on the TV (an appliance) and another component of the content being performed on the stereo system. The examiner feels that claim 7 reads on the use of a cable box (satellite box) where the video output goes to the TV and the audio outputs go to a stereo, something that is well known as far as TVs and stereo systems go.

7. Claims 12,13,18 are rejected under 35 U.S.C. 102(b) as being anticipated by a 1995 Sony™ television that has a "picture in picture" feature.

Applicant is referred to the document that shows the remote control for the television and explains how the "picture in picture" works. A person uses the remote control (mobile comp. device) to wirelessly control the television. A person can watch two shows at one time by utilizing a first appliance (the main picture screen) and a 2nd

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appliance (the window picture screen). When a program is being watched on the main screen the user can swap the picture from the main screen to the smaller window screen. This done by using the swap button. The user can also selectively listed to audio for either program (main screen or window screen). When a program is swapped from the main screen to the window screen, this results in only one component of the content being shown in the 2nd appliance. This satisfies what is claimed.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1,11,17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hogle, IV (5923307).

For claims 1,11,17, Hogle discloses a method of using two separate monitors is a computing environment. The mobile computing device is computer 300. The computer is portable and fully capable of being moved so the limitation of "mobile" is satisfied. The 1st appliance is monitor 330 and the 2nd appliance is monitor 332. It is disclosed that the computer has a "mouse" 310 that interacts with computer 300. See column 1, line 33 to end where it is disclosed that "an end-user may move objects, such as windows A,B,C,D, and cursor 25 back and forth between" the monitors. The displaying of a window is taken as a performance of a content. The display of a window in a computer environment is a performance of the content of the window. The examiner

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also notes that the patent discloses the concept of "point & click and drag & drop" with respect to the managing of the displays, see column 1, lines 33-35. The point, click, drag, and drop function is done by using the mouse. When a user is moving a window from the 1st monitor to the 2nd monitor, this satisfies the claimed limitation of "switching the performance from a first appliance to a second appliance of the plurality of appliances". This also satisfies the limitation in claim 11 of "while substantially preserving the continuity of the performance". The performance of the content is not disrupted when the window is moved from one monitor to the other. Not disclosed is that the performance of the content is initiated wirelessly. The examiner takes "official notice" that it is old and well known in the art of computers to have a mouse wirelessly communicate with the processor of the computer. Wireless mouse are nothing new and have been around and in use in the public domain prior to the filing date of the instant application. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a wireless mouse in Hogle so that the advantages of a wireless mouse can be realized. This then would result in one using the mouse to click open a window, which satisfies the limitation of "wirelessly initiating a performance of a content". The use of a wireless mouse to click on an application and open a window satisfies what is claimed.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 571-272-6808. The examiner can normally be reached on Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DENNIS RUHL
PRIMARY EXAMINER